

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

HOWARD JOE SMITH,	:	PRISONER CIVIL RIGHTS
Plaintiff,	:	42 U.S.C. § 1983
	:	
v.	:	
	:	
RHONDA G. PAYNE,	:	CIVIL ACTION NO.
Defendant.	:	1:13-CV-0639-TWT-JFK

**MAGISTRATE JUDGE'S FINAL  
REPORT AND RECOMMENDATION**

Plaintiff filed this action against Rhonda G. Payne. (Doc. 1). The matter is now before the Court on Plaintiff's motion to dismiss, in which he states that he wishes to release Rhonda G. Payne from this action. (Doc. 4).


It is recommended that the motion be granted. Federal Rules allow plaintiffs, before service on the adverse party, to dismiss their actions without prejudice. Fed. R. Civ. P. 41(a). Here, the only defendant has not been served, and Plaintiff is entitled to the dismissal of his action.

Accordingly,

**IT IS RECOMMENDED** that Plaintiff's motion to dismiss, (Doc. 4), be **GRANTED** and that this action be **DISMISSED** without prejudice.

The Clerk of Court is **DIRECTED** to withdraw the referral to the Magistrate Judge.

**IT IS SO ORDERED and DIRECTED**, this 4<sup>th</sup> day of April, 2013.

  
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JANET F. KING  
UNITED STATES MAGISTRATE JUDGE